IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 5TH JULY 2007 / 14TH ASHADHA 1929

Bail Appl..No. 4051 of 2007()

CRMP.2098/2007 of D.C. & SESSIONS COURT,KOLLAM
CRIME NO.121/2007 OF KULATHUPUZHA POLICE STATION

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PETITIONER/ACCUSED

BIJU, S/O. THOMAS,
CHAMAVILA VEEDU, THALAPACHA, KALLUVETTAMKUZHY,
THINKALKARIKKOM, KULATHUPUZHA, KOLLAM DISTRICT.

BY ADV. SRI.B.MOHANLAL

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY
THE SUB INSPECTOR OF POLICE, KULATHUPUZHA POLICE
STATION, KOLLAM DISTRICT, THROUGH THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 05/07/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.4051 of 2007

Dated this the 5th day of July 2007

O R D E R

Application for anticipatory bail. The petitioner faces allegations under the Arms Act. He is alleged to have kept in his possession, a fire arm without any legal authority.

2. The fact of possession of the fire arm was revealed when the petitioner, using the said fire arm, caused damage to the house of the de facto complainant. The petitioner approached the mother of the de facto complainant with a request not to reveal the incident to anyone. The de facto complainant did not oblige. He filed a complaint before the police. The crime was registered. Investigation is in progress. The petitioner has not been arrested so far. The fire arm has not been seized. The petitioner apprehends imminent arrest.

3. The learned counsel for the petitioner submits that the allegations are totally false. There is some strain in the relationship between the petitioner and the de facto complainant. Consequently, false allegations have been raised, it is submitted. In these circumstances, anticipatory bail may be granted to the petitioner, it is prayed.

4. The learned Public Prosecutor opposes the application. The learned Public Prosecutor submits that the house of the de facto complainant bears tell-tale evidence of damage by a gun shot. The

petitioner has to be arrested and questioned. Attempt must be made to recover the unlicensed fire arm. If that is not done, there can be no effective and proper investigation, submits the learned Public Prosecutor. At any rate, this is not a fit case where directions under Section 438 Cr.P.C can or ought to be issued in favour of the petitioner, submits the learned Public Prosecutor.

5. I find merit in the opposition by the learned Public Prosecutor. I am satisfied that this is a fit case where the petitioners must appear before the investigating officer or the learned Magistrate having jurisdiction and co-operate with the investigating officer. He must then seek regular bail in the normal and ordinary course. I have no reason to assume that the learned Magistrate would not consider the application for bail to be filed by the petitioner on merits, in accordance with law and expeditiously.

6. In the result, this petition is dismissed. Needless to say, if the petitioner surrenders before the investigating officer or the learned Magistrate and applies for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007